

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIERLING COMMUNICATIONS GMBH,

Plaintiff,

09-CV-6654 (CS) (GAY)

- against -

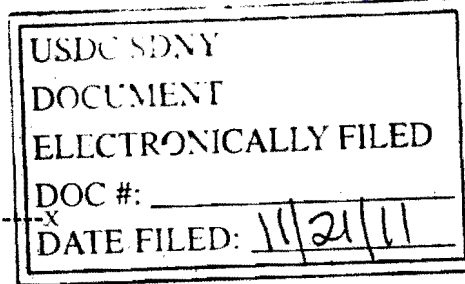
THOMAS STROYLS, USNETSERVE.COM, INC.,
and VIERLING NORTH AMERICA, INC.

Defendants.
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Seibel, J.

Before the Court is the Report and Recommendation of Magistrate Judge George A. Yanthis dated September 14, 2011 (the "R&R") (Doc. 95), to whom I had referred this matter for an inquest as to damages, (Doc. 71), following the default of Defendants. In the R&R Judge Yanthis recommends that damages in the amount of \$343,553.60, plus interest at 9% from February 1, 2007 until the entry of judgment, be awarded against Defendants Thomas Stroyls and USNetserve.com, Inc., and that damages in the amount of \$176,546.80, plus interest at 9% from August 1, 2007 until the entry of judgment be awarded against Defendants Stroyls and Vierling North America, Inc. For reasons stated herein, the Court adopts the R&R and directs the entry of judgment as recommended.

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Parties may raise objections to the magistrate judge's report and recommendation, but they must be "specific," "written," and submitted "[w]ithin 14 days after being served with a copy of the recommended disposition." Fed. R. Civ. P. 72(b)(2); *accord* 28 U.S.C. § 636(b)(1)(C).

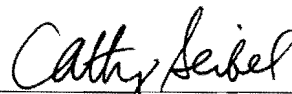


Insofar as a report and recommendation deals with a dispositive motion, a district court must conduct a *de novo* review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C); *see* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”). The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. *See Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72 advisory committee’s note (b).

No objections have been lodged to the R&R. I have reviewed it for clear error and find none. Accordingly, I adopt the R&R as the decision of the Court. The Clerk of Court is respectfully directed to enter judgment : 1) against Defendants Thomas Stroyls and USNetserve.com, Inc. in the amount of \$343,553.60, plus interest at 9% from February 1, 2007 until the entry of judgment; and 2) against Defendants Thomas Stroyls and Vierling North America, Inc. in the amount of \$176,546.80, plus interest at 9% from August 1, 2007 until the entry of judgment. The Clerk of the Court is further respectfully directed to close the case.

SO ORDERED.

Dated: November 17 2011
White Plains, New York



CATHY SEIBEL, U.S.D.J.